

MONTANA LEGISLATIVE HISTORY

Chapter 503 19 91

Bill H 239 S _____ Original bill & history C

H. Committee on Business & Economic Development S. Committee on Business & Industry

Hearing Date(s) Feb 20 ☒ C

_____ ☐ C

_____ ☐ C

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Date Out Feb 20 ☒ C

Hearing Date(s) Mar 18 ☒ C

Mar 26 ☒ C

_____ ☐ C

_____ ☐ C

Mar 26 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SERVICES IF APPROVED BY VOTERS

2/09	INTRODUCED		
2/09	REFERRED TO TAXATION		
2/11	FIRST READING		
2/22	HEARING		
3/03	COMMITTEE REPORT—BILL PASSED		
4/02	2ND READING DO PASS MOTION FAILED	48	49
4/02	SEGREGATED FROM COMMITTEE OF WHOLE REPORT AND PLACED ON 2ND READING		
4/03	2ND READING PASSED	59	41
4/03	ON MOTION RULES SUSPENDED TO ALLOW 3RD READING THIS DAY		
4/03	3RD READING PASSED	57	43
	TRANSMITTED TO SENATE		
4/04	FIRST READING		
4/04	REFERRED TO TAXATION		
4/09	HEARING		
4/10	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/15	2ND READING CONCURRED	48	0
4/16	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS CONCURRED	78	22
4/19	3RD READING AMENDMENTS CONCURRED	67	30
4/24	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/24	TRANSMITTED TO GOVERNOR		
4/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 668		
	EFFECTIVE DATE: 4/26/91		

HB 739 INTRODUCED BY J. RICE

REVISE REAL PROPERTY REDEMPTION LAWS

2/09	INTRODUCED		
2/09	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/11	FIRST READING		
2/20	HEARING		
2/20	COMMITTEE REPORT—BILL PASSED		
2/25	2ND READING PASSED AS AMENDED	92	6
2/25	3RD READING PASSED	94	5
	TRANSMITTED TO SENATE		
2/26	FIRST READING		
2/26	REFERRED TO BUSINESS & INDUSTRY		
3/18	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED	49	0
4/01	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	97	0
4/10	3RD READING AMENDMENTS CONCURRED	99	0
4/15	SIGNED BY SPEAKER		
4/16	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 503		
	EFFECTIVE DATE: 10/01/91		

HB 740 INTRODUCED BY GRADY, ET AL.

BREWERY PUB BEER LICENSE

2/09	INTRODUCED		
2/09	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/11	FIRST READING		
2/11	FISCAL NOTE REQUESTED		

play a prominent part. Ms. Guedes said each of the six tourism regions has a board of directors. The DOC is not very involved directly with the board, except to provide information and coordination. Several boards include participation of representatives from the tribes. The by-laws call for open access, so no groups may be excluded from being on the board. REP. ELLIS asked if a motel on the reservation would pay the bed tax and would it be under the jurisdiction of that program. Ms. Guedes said they do not collect bed tax from Indian people. Non-Indians would pay the tax.

Closing by the Sponsor:

REP. RUSSELL said she did not know she was excluded from the bed tax. She has been paying it all this time. There are very few hotels/motels on reservations and that varies from reservation to reservation. She does not think Indian people have been as involved as they might be. She would like to see a more positive support. Custer Country is considered to be the Crow Tribe area.

HEARING ON HOUSE BILL 739

Presentation and Opening Statement by Sponsor:

REP. JIM RICE, HD 43, Helena, explained this is an Act revising the law relating to redemption of real property after a mortgage foreclosure sale; changing the rate of interest that accrues on redemption; providing for recovery of reasonable repair and maintenance expenses paid by a purchaser at a sheriff's sale; and amending several sections of Title 25, Chapter 13, MCA.

When a mortgage is foreclosed, and if someone wanted to redeem the property, the Right of Redemption comes in after foreclosure to buy the property back. When a conventional mortgage is foreclosed the original owner of that property has one year to redeem the property. This does not deal with the typical family homeowner mortgages. It deals with commercial income-producing property. This bill addresses who pays the interest, who pays the cost when commercial property is redeemed.

Proponents' Testimony:

Jock Anderson, Montana League of Savings Institutions, Helena, said HB 739 addresses something more than mortgage foreclosures. It actually addresses the redemption statutes in Montana. Those redemption statutes apply any time real property is sold in satisfaction of a debt. Often times, that will rise from foreclosure of a mortgage, but just as often it may rise from efforts to collect on a judgment. When a plaintiff obtains a judgment, the collection process begins and involves the sale of the debtor's property. The manner is set forth in Montana's statutes. It is sold by the sheriff after publication and posting. When the property that is sold to satisfy the debt happens to be real property, then Montana's redemption rights do

apply. Classes of people, called redemptioners, have one year to recapture the property. The way they recapture the property under current law is to pay to the purchaser at the sheriff's sale, the purchase price plus certain costs. It is those additional costs that this act addresses. Redemptioners are defined in the statute as the debtor or the debtor's spouse or the lienholder or the shareholders of a corporation.

Redemption rights have two purposes: one, is to allow the debtor the right to get the property back; and second, redemption rights were the means that many states used to try to guarantee that a fair price would be obtained at the foreclosure sale. If the price is low, the purchaser will know that the likelihood of redemption is high. All bidders have an incentive to bid as close to full market value as is prudent. This act addresses the additional costs which the redemptioner must pay if property is redeemed. Under the current law, when property is redeemed the purchase price must be paid, plus the purchaser is paid six percent for the loss of the use of his money. Secondly, the statute provides the purchaser pay any taxes or assessments that he has paid during the time he owned the property. HB 739 increases the interest from six percent to state the interest will be the same as the interest on a judgment. Under Montana law, that is ten percent in some cases, and where there is a written instrument that the judgment is based on, then it would be at whatever rate of interest is contained in that instrument. The practical effect is to raise somewhat the amount of interest the redemptioner has to pay.

The Montana League of Savings Institution supports that amendment for several reasons. (1) Six percent is not a fair rate of return in this day and age. (2) It creates a situation for setting the interest rate different than the rate on the judgment and would just allow interest to accrue. (3) Historically, it is important to understand that at the time the redemption acts were passed, six percent was the same as the interest on judgments. (4) In 1979, the Legislature determined that six percent was not a fair return, so the rate was changed to ten percent. However, other laws that were pegged on that rate of interest were not changed at the same time, thus there is the disparity that exists today. That disparity will be corrected by this bill.

The other part of the bill adds a Section 3 which says when someone redeems the property, he has to pay to the purchaser the actual cost the purchaser has invested in the property to maintain and repair the property. He wasn't certain if this is a change in current law. The issue has not been addressed in this state. In other states, the courts have found that type of reimbursement is inferred in the statute. When someone redeems the property they not only get the property back, they get all the rents and profits that were accrued while it is in the process of being redeemed. The redemptioner gets the rents, but the person who bid in good faith at the sale and had to maintain the property for one year does not receive credit for the money

he had to spend to fix the property. He said the Montana Savings Institute supports this statute because it makes clear those costs are recoverable.

They think this bill is good on two levels. On a basic level, it is a question of fairness. They think a bidder is entitled to those monies if the property is redeemed. More important to the lending industry is to understand the bankers do not like to be the purchaser at sales per se. The more bidders the better and the higher the bid. This bill is a positive step to remedy the problems.

George Bennett, Montana Bankers Association, Helena, said this is an Association of Montana and national banks. They support the bill. The questions that HB 739 addresses have been raised by Law Review articles and by people who are critical of the present laws on foreclosure. The effect of the bill will be to encourage people to bid at foreclosure sales because they would know that, if the redemption right is exercised, they will receive closer to a market rate of interest and the cost of any improvements made will be refunded. This should work to the benefit of debtors and creditors alike.

Questions from the Committee:

REP. SHEILA RICE asked how often the property is redeemed by the original owner. Mr. Bennett said he estimates probably 20% of the time.

Closing by the Sponsor: REP. JIM RICE closed.

EXECUTIVE ACTION ON HOUSE BILL 739

Motion/Vote: REP. PAVLOVICH moved HB 739 DO PASS.

Discussion: REP. SCOTT suggested the Committee postpone voting on this bill at this time, to which they agreed.

HEARING ON HOUSE BILL 683

Presentation and Opening Statement by Sponsor:

REP. RICHARD SIMPKINS, HD 39, Great Falls, said HB 683 was requested by the Montana Automobile Dealers Association. It is an Act to regulate the use of aftermarket crash parts not manufactured by the original manufacturer of the motor vehicle in repairing motor vehicles by requiring disclosure for the use of those parts; providing penalties; amending Section 30-14-1104, MCA; and providing an effective date. HB 683 defines parts used for replacement on an automobile. The parts should be original or the owner should know the parts are not original. The parts are defined on Page 1, line 21, "the non-mechanical sheet metal or plastic parts that generally constitute the exterior of a

EXECUTIVE ACTION ON HOUSE BILL 739

Motion: REP. TUNBY moved HB 739 DO PASS.

Discussion:

REP. SCOTT thought the bill makes it more difficult for people in tough financial situations. It makes it more difficult for the person who is losing his property to recover it. It makes it harder for a person to recover from a bad situation and makes it easy for a loan institution to cash in on a bad deal. CHAIRMAN BACHINI asked if it would hurt the original owners. REP. SCOTT said yes.

Vote: Motion carried with REPS. STELLA JEAN HANSEN, McCULLOCH, SCOTT, and DOWELL voting No.

EXECUTIVE ACTION ON HOUSE BILL 819

Motion: REP. PAVLOVICH moved HB 819 DO PASS.

Motion: REP. PAVLOVICH moved to strike the new language on Page 3, lines 15, 16, and 17. They are not necessary.

Discussion:

REP. STELLA JEAN HANSEN said there has been considerable controversy over what they are doing.

REP. LARSON said the tribes fight among themselves.

REP. KILPATRICK remarked the sponsor was organized. Coordination is certainly not going to hurt. He recommended leaving the proposed amendment in the bill.

REP. BACHINI would support the amendment. They have a representative who works to try to better promote the historic sites in his area. That representative is having the same problem as the tribes. A lady from the Department hopes HB 819 would not pass. She wanted to let them work with the tribes. They were not going to eliminate them.

REP. STEPPLER thought some of the references a brochure depicted were not on the reservation, such as Fort Peck Dam, Medicine Lake. There is a definite problem in The Missouri River Country working with the tribes. That clause is needed to promote coordination of the seven tribes in their own areas. He opposed the amendment, but said the bill is needed.

REP. STELLA JEAN HANSEN commented there was nothing in the information that promoted Indian culture. It was presented definitely from the white man's viewpoint. They should have the chance for some input on these things.

HOUSE OF REPRESENTATIVES

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE Feb. 20, 1991

[illegible]

HOUSE STANDING COMMITTEE REPORT

February 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 739 (first reading copy -- white) do pass .

Signed: Bob Bachini
Bob Bachini, Chairman

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECON. DEVELOPMENT

COMMITTEE

BILL NO. HB 739

DATE FEB. 20, 1991

SPONSOR(S)

REP. JIM RICE

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
GEORGE T. BENNETT	MONTANA BANKERS ASSN	739		X
Jack Anderson	MT League of Soc. Just	739		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

that the language on page two, lines thirteen and fourteen be stricken.

Closing by Sponsor:

Representative Brown closed by adding some correspondence to the record (See Exhibit 2 through Exhibit 2Z-1). This is not a chiropractic relief bill, it is a patient fairness bill. Chiropractic reviewers are as tough on chiropractors as medical doctors are on medical doctors. Section one is not overly broad, it simply limits chiropractic physical examination and review of the records.

HEARING ON HOUSE BILL 739

Presentation and Opening Statement by Sponsor:

Representative Jim Rice, sponsor of the bill, stated that in those cases where there has been a foreclosure of a mortgage, the lending institution has come in and taken the property back. In cases where there has been a judgement entered and real property is taken for the satisfaction of that judgement. The people who have lost their property in that situation have the right within one year of losing it to redeem the property, or to buy it back. This is not the typical homeowner situation. This bill sets forth what should be the interest and what should be the cost that the redemptioner pays when buying back his property.

Proponents' Testimony:

Jock Anderson, representing the Montana league of savings institutions, stated anytime a creditor obtains a judgement there is a lien against the property covered by the mortgage, and generally upon the real property. Anytime that real property is sold by the sheriff, to satisfy the debt, in the redemption laws of Montana activate themselves. According to law, all people that are called redemptioners have one year to repurchase the property. The bill changes the interest rate provision.

George Bennett, representing the Montana banker's association, stated that they support the bill for the reasons that have been given. We have not been getting enough bidders at foreclosure sales, this bill would encourage people to do it.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Gage asked if there could be an instance where the judgement does not speak to interest.

Jock Anderson stated no. The judgement statutes now provide

that if the judgement is on an underline of a promissory noter instrument, if there is not interest rate expressed in the instrument then it is automatically ten percent.

Senator Thayer stated that he does not object to the bill as it is written, but has a problem with striking the language in the title that Representative Rice suggested.

Representative Rice stated that the reason that he has asked that this language be stricken is that it reads "as applying to redemption after a mortgage foreclosure" and these redemption statutes that we are amending do apply to situations other than just mortgage foreclosures.

Closing by Sponsor:

Representative Rice closed by saying that this bill is not Galleria, it is something that is different, and if the committee would like more language to clarify that point it is fine with him.

EXECUTIVE ACTION ON HOUSE BILL 853

Motion:

Senator Noble moved the amendment proposed by MACO.

Senator Noble moved that HB 853 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

The amendments to HB 853 passed unanimously.

Recommendation and Vote:

The motion that HB 853 be concurred in as amended passed unanimously. Senator Hager will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 672

Motion:

Senator Williams moved to amend HB 672 by inserting 'solely' on page seven, line six following the word 'individual'.

Senator Hager moved to amend HB 672 on page two, line eighteen, starting by striking 'or' and insert 'the condition may only be excluded for a maximum of twelve months'.

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE

3/18/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	Y		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Dr. Lee Hudson	MT. Chiropractic Assn.	HB 719	✓	
Dr. Pam Blanchard	MT. Chiropractic Assn	HB 719	✓	
Bonnie Tinsley	MT Chiropractic Assn	HB 719	✓	
GEORGE T. BENNETT	MONT. BANKERS ASSN	H.B. 739	✓	
Tom Hopgood	Health Ins. Assn. Amer.	HB 719		✓
Diana Keon	D of Revenue	HB 698	—	—
Steve Brown	Blue Cross-Blue Shield	HB 719		✓
Jackeline N. Verrell	Am. Ins. Assoc.	HB 203	✓	
Jackeline N. Verrell	Am. Ins. Assoc.	HB 719		✓
Dr. Bingham	Board of Chiropractors	HB 719	✓	
LARRY AKEY	MT ASSOC OF LIFE UNDERWRITERS	HB 719		✓
LARRY AKEY	"	HB 203	✓	
George Wood	MT SELF INSURERS ASSOC	HB 719		✓
Gary Blom	MCA	719	✓	
Pat Sweeney	STATE FUND	719		✓
Jim T. Lundy	mt. med assn	719		✓
Steve Brownings	State Farm Ins	HB 719		✓
Kene Phillips	Alliance Am. Ins.	HB 719		✓
Jack Adams	MT League of SVL	HB 739	✓	
Roger Tinsley	MT Beert Wine (Wholesale)	HB 698	✓	
Roger Tinsley	MT Indep Bankers	HB 739	✓	

Motion:

Senator Thayer moved to amend HB 719 with the amendments proposed by Tom Hopgood.

Senator Noble moved HB 719 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

Tom Hopgood proposed some amendments to the bill (See attached copy).

Bonnie Tippy stated that she is in agreement with the amendments proposed by Tom Hopgood.

The motion by Senator Thayer to amend HB 719 with the amendments proposed by Tom Hopgood passed unanimously.

Recommendation and Vote:

The motion by Senator Noble that HB 719 be concurred in as amended passed 6 to 3 vote.

EXECUTIVE ACTION ON HOUSE BILL 739

Motion:

Senator Gage moved to amend HB 739.

Senator Bruski moved HB 739 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

Bart Campbell stated that this amendment came from a concern of Senator Thayer about mortgage, foreclosures, and trust indentures. On line five, it would now read an act revising the law relating to redemption of real property. When you get back to the code at 25-13, part eight. It pulls in all of the sections and parts in front of it. Those parts are very specific as to what kinds of foreclosure sales you are dealing with. They deal with execution sales. This language would be taken out of the title. The other change was pursuant to Senator Gage on page six, the new language on one and two. Senator Gage felt that wasn't really clear. He deleted that language, and inserted instead any payments made under 25-13-802 sub 2 and 3, which are payments which are to keep up the taxes on the property. Those payments must be subtracted from the credit for rents and

profits.

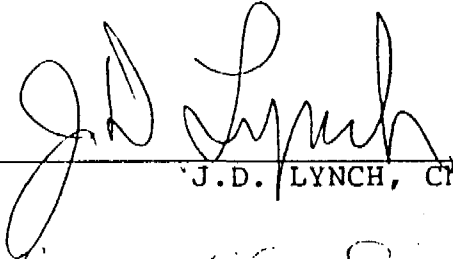
The motion by Senator Gage to amend HB 739 passed unanimously.

Recommendation and Vote:

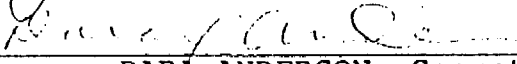
The motion by Senator Bruski that HB 739 be concurred in as amended passed unanimously.

ADJOURNMENT

Adjournment At: 11:15 a.m.



J.D. LYNCH, Chairman



DARA ANDERSON, Secretary

JDL/dia

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE

3/20/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	X		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/26/91 Bill No. HB739 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	Y	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: To AMEND

Amendments to House Bill No. 739
Third Reading Copy

Requested by Senator Thayer
For the Committee on Business and Industry

Prepared by Bart Campbell
March 21, 1991

1. Title, lines 5 and 6.

Strike: "AFTER" on line 5 through "SALE" on line 6

2. Page 6, lines 1 and 2.

Strike: "The" on line 1 through "(3)" on line 2

Insert: "Any payments made under 25-13-802(2) and (3) must be
subtracted from the credit for rents and profits"

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/26/91 Bill No. HB 739 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion: BE CONCURRED IN AS AMENDED

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 739 (third reading copy -- blue), respectfully report that House Bill No. 739 be amended and as so amended be concurred in:

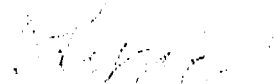
1. Title, lines 5 and 6.

Strike: "AFTER" on line 5 through "SALE" on line 6

2. Page 6, lines 1 and 2.

Strike: "The" on line 1 through "(3)" on line 2

Insert: "Any payments made under 25-13-802(2) and (3) must be subtracted from the credit for rents and profits"

Signed: 
John "J.D." Lynch, Chairman

191 3-26-91
And. Coord.

Sec. of Senate

65133/SC.SJ1